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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re L.R.,

a Person Coming Under the Juvenile  
Court Law.

B210013

(L.A.S.C. No. CK62810)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Petitioner,

v.

THE SUPERIOR COURT OF  
LOS ANGELES COUNTY,

Respondent;

GRACIE J. et al.,

Real Parties in Interest.

(MARGUERITE DOWNING, Judge)

OPINION AND ORDER  
GRANTING PEREMPTORY  
WRIT OF MANDATE

ORIGINAL PROCEEDING; petition for writ of mandate. Marguerite Downing,  
Judge. Petition granted.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County  
Counsel, and Kirstin J. Andreasen, Senior Associate County Counsel, for Petitioner.

No appearance for Respondent.

Children's Law Center of Los Angeles, Carol B. Gasas Kittler, Brenda Robinson;  
Law Office of Barry Allen Herzog, Ellen L. Bacon; Law Office of Alex Iglesias, Steven  
Shenfeld for Real Parties in Interest.

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The juvenile court abused its discretion in providing grandmother reunification services. Accordingly, the petition is granted.<sup>1</sup>

### **FACTUAL AND PROCEDURAL BACKGROUND**

On March 22, 2006, the Department of Children and Family Services (DCFS) placed then four-year-old L.R. in protective custody and filed a Welfare & Institutions Code section 300 petition.<sup>2</sup> The petition was based upon Father's physical abuse of L.R.'s sibling, Mother's failure to protect the sibling, the parent's domestic violence, the parent's substance abuse, Mother's mental and emotional problems, including a diagnosis of depression and schizophrenia, and drug use in the home. L.R. was placed with Ms. P. her maternal grandmother.

L.R. and four of her siblings remained with grandmother while Mother and Father received reunification services. In August 2006, grandmother asked that two of the siblings be removed from her care. Grandmother received family preservation services,

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<sup>1</sup> As there is not a plain, speedy and adequate remedy at law, and in view of the fact that the issuance of an alternative writ would add nothing to the presentation already made, we deem this to be a proper case for the issuance of a peremptory writ of mandate "in the first instance." (Code Civ. Proc., § 1088; *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1240-1241; *Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1222-1223; *Ng v. Superior Court* (1992) 4 Cal.4th 29, 35.) Opposition was requested and the parties were notified of the court's intention to issue a peremptory writ. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180.)

<sup>2</sup> Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

including in-home counseling services, from May 2006 through May 2007. She was also offered “wraparound” services, and “systems of care.”

On September 28, 2007, L.R. was removed from grandmother’s home and a section 387 petition was filed. The petition alleged that grandmother hit L.R. and her siblings with a belt as a form of discipline. L.R. was placed in a foster home.

At the detention hearing on the section 387 petition on October 3, 2007, the juvenile court addressed reunification services. The DCFS counsel pointed out that grandmother had no right to such services. The juvenile court responded, “Right. Right. Okay,” and made no orders regarding services to the grandmother.

Grandmother wanted to pursue adoption of L.R. and her siblings.

On July 9, 2008, the juvenile court sustained the section 387 petition. Grandmother had enrolled in a 15-week program that addressed parenting, anger management, and budgeting. She requested reunification services in connection with L.R.

On July 10, 2008, the juvenile court ordered the DCFS to provide grandmother with reunification services, finding the services would be in L.R.’s best interest, and grandmother was a source for permanence. The juvenile court stated: “The court is going to grant family reunification services. The court [L.R.] has been, for the most part, raised by her grandmother. She considers her grandmother home, and she wants to return there. I think it’s in her best interest to provide the grandmother with the tools to appropriately discipline her. [¶] And she may ultimately be a resource with respect to legal guardianship or other planned permanent living arrangement.” The juvenile court created a case plan, which included a parenting course, monitored visits, and transportation funds. The juvenile court then terminated Father’s reunification services (Mother’s reunification services had been terminated in Dec. 2006) and scheduled a section 366.26 hearing for L.R. and her siblings for November 13, 2008 and a review

hearing for L.R. and a section 366.21, subdivision (e) hearing regarding grandmother for January 8, 2009.

On August 11, 2008, the juvenile court vacated the previous scheduled section 366.26 hearing.

On September 12, 2008, DCFS filed a Code of Civil Procedure 170.6 motion as to Judge Downing. The disqualification motion was accepted. The matter was transferred to Referee Robert Stevenson in Department 411, who vacated all scheduled hearings.

## **DISCUSSION**

The juvenile court has broad discretion to determine the best interests of a dependent child of the court and its decision will not be overturned absent a clear showing it abused its discretion. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006, 1008.)

Because grandmother is neither a parent nor a guardian, the juvenile court had no authority to order her to receive reunification services. Section 362, subdivision (c) limits the juvenile court's authority in this regard to "the parents or guardians" of the child." No discretion is given to grant services to others. For example, the juvenile court has no discretion to give services to an alleged father, de facto parent, step-parent, or even a child's former legal guardian, (*In re Alicia O.* (1995) 33 Cal.App.4th 176, 181-184; *Clifford S. v. Superior Court* (1995) 38 Cal.App.4th 747, 752; *In re Jodi B.* (1991) 227 Cal.App.3d 1322, 1324), and a section 366.21, subdivision (e) hearing can only be set to address issues regarding parents or legal guardians.

In this case, grandmother should not have been provided reunification services. The statutes provide for juvenile courts to make orders as to the parents or the legal guardians. As stated, grandmother was not L.R.'s legal guardian.

## **DISPOSITION**

THEREFORE, let a peremptory writ issue, commanding respondent superior court to vacate its order of July 10, 2008, granting grandmother reunification services, and to issue a new and different order denying same, in Los Angeles Superior Court case No. CK62810, entitled In re L.R.

NOT TO BE PUBLISHED

THE COURT:

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MALLANO, P. J.

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ROTHSCHILD, J.